

**STATE OF TENNESSEE  
DEPARTMENT OF HEALTH**

IN THE MATTER OF:	)	BEFORE THE TENNESSEE BOARD
	)	OF MEDICAL EXAMINERS
MICHAEL A. RHODES, SR., M.D.	)	
RESPONDENT	)	CASE NOS: 2010016091
	)	
GOODLETTSVILLE, TENNESSEE	)	
TENNESSEE LICENSE NO. 37647	)	

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**CONSENT ORDER**

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Comes now the Division of Health Related Boards of the Tennessee Department of Health (hereinafter the "Division"), by and through the Office of General Counsel, and Respondent, Michael A. Rhodes, Sr., M.D., (hereinafter "Respondent"), who would respectfully move the Tennessee Board of Medical Examiners (hereinafter the "Board") for approval of this Consent Order affecting Respondent's medical license in the State of Tennessee.

The Board is responsible for the regulation and supervision of medical doctors licensed to practice in the State of Tennessee. *See* Tennessee Medical Practice Act, Tennessee Code Annotated Section (hereinafter "TENN. CODE ANN.") § 63-6-101, *et seq.* It is the policy of the Board to require strict compliance with the laws of this State, and to apply the laws so as to preserve the quality of medical care provided in Tennessee. It is the duty and responsibility of the Board to enforce the Tennessee Medical Practice Act in such a manner as to promote and protect public health, safety, and welfare in every practicable way, including disciplining medical doctors who violate the provisions of TENN. CODE ANN. § 63-6-101, *et seq.* or the Rules and Regulations promulgated by the Board and recorded in the Official Compilation Rules and Regulations of the State of Tennessee (hereinafter "TENN. COMP. R. & REGS.").

Respondent, Michael A. Rhodes, Sr., M.D., by his signature to this Consent Order, waives the right to a contested case hearing and any and all rights to judicial review in this matter. Respondent agrees that presentation to and consideration of this Consent Order by the Board for ratification and all matters divulged during that process shall not constitute unfair disclosure such that the Board or any of its members shall be prejudiced to the extent that requires their disqualification from hearing this matter should this Order not be ratified. Likewise, all matters, admissions, and statements disclosed or exchanged during the attempted ratification process shall not be used against Respondent in any subsequent proceeding unless independently entered into evidence or introduced as admissions.

Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to challenge or contest the validity of this Consent Order. Respondent understands that by signing this Consent Order, Respondent is allowing the Board to issue its order without further process. Respondent acknowledges that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank and/ or a similar agency. In the event that the Board rejects this Consent Order for any reason, it will be of no force or effect for either party.

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## **I. STIPULATIONS OF FACT**

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1. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted Tennessee medical license number 37647 by the Board on May 5, 2003, which has a current expiration date of December 31, 2013.

2. Respondent was previously disciplined by the Board of Medical Examiners in July 2009. Respondent received a reprimand, a nine-thousand dollar (\$9,000.00) fine, and was required to take the "*Medical Ethics, Boundaries and Professionalism*" and "*Intensive Course in Medical Record Keeping*" courses offered at The Case Western Reserve University School of Medicine as well as the "*Prescribing Controlled Drugs*" course offered at The Center for Professional Health at Vanderbilt University Medical Center. The grounds for discipline was based upon the stipulation of facts that Respondent engaged in prescribing controlled drugs without documenting appropriate medical histories or performing adequate physical examinations, and which drugs were not medically necessary or were prescribed for inappropriate durations in violation of TENN. CODE ANN. § 63-6-214(b)(1), (4), and (12).
3. From beginning in January 2009 to the present, Respondent provided treatment to multiple patients.
4. The Department conducted an investigation that included the review of twenty-five (25) of the patient records prepared and kept by Respondent while he was the Medical Director for Medical Necessities.
5. The treatment Respondent provided included prescribing narcotics and other medications and controlled substances in amounts and/or for durations not medically necessary, advisable, or justified for a diagnosed condition.
6. Respondent prescribed controlled substances for pain for his patients without a clear objective finding of a chronic pain source to justify the ongoing and increasing prescribing.

7. Respondent prescribed controlled substances and other medication without documenting a written treatment plan with regard to the use of controlled substances and other medication.
  8. Respondent failed to properly or consistently monitor for or seek out and respond to signs of substance abuse on the part of his patients.
  9. Respondent provided few modalities of treatment other than the prescription of controlled substances.
  10. Respondent avers that he voluntarily left Medical Necessities employ and has begun his own practice in primary care where he does not practice pain management.
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## II. GROUNDS FOR DISCIPLINE

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The facts stipulated to in the Stipulations of Fact are sufficient to establish that grounds for discipline of Respondent's medical license exist. Specifically, Respondent has violated the following statutes or rules which are part of the Tennessee Medical Practice Act, (TENN. CODE ANN. § 63-6-101, *et seq.*) for which disciplinary action before and by the Board is authorized:

11. The facts stipulated in paragraphs 1 through 9, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(1):
  - Unprofessional, dishonorable or unethical conduct.
12. The facts stipulated in paragraphs 1 through 9, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(12):
  - Dispensing, prescribing or otherwise distributing any controlled substance or any other drug not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, or in amounts and/or for durations not medically necessary, advisable or justified for a diagnosed condition.

13. The facts stipulated in paragraphs 1 through 9, *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(13):

Dispensing, prescribing or otherwise distributing to any person a controlled substance or other drug if such person is addicted to the habit of using controlled substances without making a bona fide effort to cure the habit of such patient.

14. The facts stipulated in paragraphs 1 through 9, *supra*, constitute a violation of TENN. COMP. R. & REG. RULE 0880-2-.14 (6)(e): which authorizes disciplinary action against a Respondent who prescribes, orders, administers or dispenses dangerous drugs or controlled substances without observing Board guidelines.

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## II. POLICY STATEMENT

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The Tennessee Board of Medical Examiners takes this action in order to protect the health, safety, and welfare of the citizens of the State of Tennessee.

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## IV. ORDER

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**NOW THEREFORE**, Respondent, for the purpose of avoiding further administrative action with respect to this cause, agrees to the following:

15. The Tennessee medical license of Michael A. Rhodes, Sr., M.D., license number 37647, is hereby placed on **PROBATION** for a period of five (5) years, effective the date of entry of this Consent Order.
16. Respondent shall obtain practice monitoring through Affiliated Monitors or another practice monitoring program preapproved by the Board's Medical Director within sixty

(60) days of the entry of this Order. The monitoring agreement shall require the following:

- i. The monitoring shall continue for a period of five (5) years.
- ii. Respondent shall receive training in appropriate prescribing of controlled medication and medical record keeping from the practice monitoring program. Said instruction shall be in addition to any continuing medical education required to maintain licensure.
- iii. Respondent shall not have less than ten percent (10%) of his patients records for patients seen within the prior thirty (30) days receiving treatment for chronic or intractable pain reviewed by the practice monitor every month. The practice monitor shall randomly determine which records to review and may at their discretion review more than ten percent (10%) of the Respondent's chronic or intractable pain records.
- iv. Respondent shall comply with all recommendations of the practice monitor program.
- v. Respondent shall cause the practice monitor to issue a report to the Board's Medical Director every three months beginning three months after the entry of this Order detailing the findings of the practice monitor in regards to the Respondent's:
  1. Compliance with practice monitor's recommendations
  2. Completion of the educational program prescribed by the practice monitor
  3. Respondent's prescribing practices

4. Respondent's medical record keeping
5. Respondent's treatment of chronic or intractable pain

17. At the conclusion of the five (5) year period of probation, Respondent may petition for an Order of Compliance. Upon Respondent's appearance before the Board and presentation of satisfactory proof of compliance with the above-referenced Physician Assessment recommendations and demonstrating compliance with the terms of this Order (including full payment of the costs referenced herein), the probation of Respondent's license may be lifted.
18. Respondent shall pay twenty-five (25) "Type A" civil penalties in the amount of five-hundred dollars (\$500.00) each, for a total of twelve-thousand five-hundred dollars (\$12,500.00), representing one "Type A" Civil Penalty for each patient referenced in this Consent Order.
19. Respondent must pay, pursuant to TENN. CODE ANN. § 63-6-214(k) and Rule 0880-2-.12(1)(j) of the Official Compilation Rules and Regulations of the State of Tennessee, the actual and reasonable costs of prosecuting this case to the extent allowed by law, including all costs assessed against the Board by the Division's Bureau of Investigations in connection with the prosecution of this matter. These costs will be established by an Assessment of Costs prepared and filed by counsel for the Department. The maximum amount for the assessment of costs shall be two thousand dollars (\$2,000.00).
20. Respondent shall maintain good and lawful conduct and any violation of law will be a violation of the terms of this Order.

21. Respondent understands that this is a formal disciplinary action and will be reported to the Health Integrity and Protection Data Bank (H.I.P.D.B.) and/or similar agency.

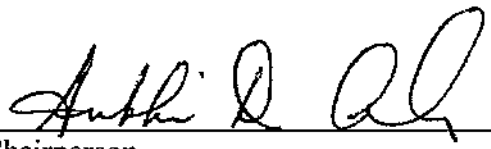
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#### IV. NOTICE

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22. Any and all civil penalties and costs shall be paid in full within ninety (90) days from the issuance of the Assessment of Costs. Payment shall be made by **certified check, cashier's check, or money order**, payable to the **State of Tennessee, Department of Health**. Any and all payments shall be forwarded to the **Disciplinary Coordinator, The Division of Health Related Boards, Tennessee Department of Health, Heritage Place Metro Center, 227 French Landing, Suite 201 Nashville, Tennessee 37243**. A notation shall be placed on said money order or such check that it is payable for the Civil Penalty and Costs of **Michael A. Rhodes, Sr., M.D., Complaint No.: 2010016091**.

This **CONSENT ORDER** was approved by a majority of a quorum of the Tennessee Board of Medical Examiners at a public meeting of the Board and signed this 22<sup>nd</sup> day of May, 2013.

  
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Chairperson  
Tennessee Board of Medical Examiners

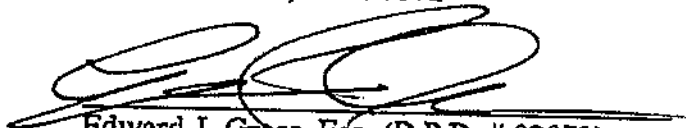


**APPROVED FOR ENTRY:**



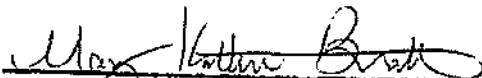
Michael A. Rhodes, Sr., M.D.  
Respondent  
Tennessee License Number 37647  
2216 Kayla Drive  
Goodlettsville, TN 37072

5-3-13  
DATE



Edward J. Gross, Esq. (B.P.R. # 02872)  
Attorney for Respondent  
404 James Robertson Parkway  
Suite 1814, Parkway Towers  
Nashville, Tennessee 37219

5/6/13  
DATE



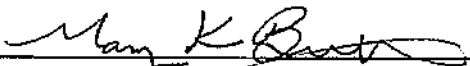
Mary Katherine Bratton (B.P.R. # 030083)  
General Counsel  
Office of General Counsel  
Tennessee Department of Health  
Plaza 1, Suite 210  
220 Athens Way  
Nashville, Tennessee 37243  
(615) 741-1611

5/20/13  
DATE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Michael A. Rhodes, Sr., M.D., through Respondent's counsel, Edward Gross, Esq., 404 James Robertson Parkway, Suite 1814, Nashville, TN 37219, by delivering same in the United States Mail, Certified Number 7012346000049431813, return receipt requested, and by regular mail with sufficient postage thereon to reach its destination

This 23<sup>rd</sup> day of may, 2013.

  
\_\_\_\_\_  
Mary Katherine Bratton  
Assistant General Counsel  
Tennessee Department of Health